

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

METROPOLITAN TRANSPORTATION
AUTHORITY and TRIBOROUGH BRIDGE
AND TUNNEL AUTHORITY,

Plaintiffs,

and

RIDERS ALLIANCE and SIERRA CLUB, NEW
YORK STATE DEPARTMENT OF
TRANSPORTATION, and NEW YORK CITY
DEPARTMENT OF TRANSPORTATION,

Intervenor-Plaintiffs,

v.

SEAN DUFFY, in his official capacity as
Secretary of the United States Department of
Transportation, GLORIA M. SHEPHERD, in her
official capacity as Executive Director of the
Federal Highway Administration, UNITED
STATES DEPARTMENT OF
TRANSPORTATION, and FEDERAL
HIGHWAY ADMINISTRATION,

Defendants.

Case No. 1:25-cv-01413-LJL

**BRIEF OF AMICI CURIAE 504 DEMOCRATIC CLUB, CENTER FOR
INDEPENDENCE OF THE DISABLED, NEW YORK, ELEVATOR ACTION GROUP,
HARLEM INDEPENDENT LIVING CENTER, MOBILIZATION FOR JUSTICE, AND
NEW YORK LAWYERS FOR THE PUBLIC INTEREST IN SUPPORT OF
PLAINTIFFS**

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Amici curiae 504 Democratic Club, Center for Independence of the Disabled, New York, Elevator Action Group, Harlem Independent Living Center, Mobilization for Justice, and New York Lawyers for the Public Interest are legal and nonprofit advocacy organizations in New York City that serve New Yorkers with disabilities. *Amici* submit this brief in support of the Plaintiffs' and Intervenor-Plaintiffs' motions for a preliminary injunction in order to provide the Court with information about the substantial benefits that the Central Business District Tolling Program ("Congestion Pricing") has and will have for people with disabilities and the corresponding dramatic negative effects that ending it would have on that community.

I. IDENTITY AND INTEREST OF THE AMICI

504 Democratic Club is the nation's first and largest political club advocating for the civil rights of people with disabilities. The 504 Democratic Club has long sought transportation equity for all in the disability community. The 504 Democratic Club has been successful as prime motivators for the installation of 10 elevators in Lower Manhattan alone in recent years and are recognized leaders in the fight for full accessibility in our transportation systems. The Taxis For All Campaign began at 504 Democratic Club meeting space, led by past Presidents Marvin Wasserman and Edith Prentiss. 504 Democratic Club's driving motivator is its firm stance that truly independent living cannot be achieved without full transportation equity.

Center for the Independence of the Disabled, New York (CIDNY) is a nonprofit organization founded in 1978. CIDNY is a part of the Independent Living Centers movement: a national network of grassroots and community-based organizations that enhance opportunities for all people with disabilities to direct their own lives. CIDNY is the largest Independent Living Center in New York, servicing more than 40,000 disabled New Yorkers every year, assisting them with benefits, housing, employment, and health care problems. A core focus of CIDNY's advocacy

is accessible transportation. The lack of reliable, equitable transit options remains one of the greatest obstacles to employment, healthcare, and civic engagement for people with disabilities. CIDNY has been deeply involved in efforts to improve accessibility in New York City, including reaching a settlement agreement with the City of New York in 2019 to install and maintain curb cuts, settling a lawsuit with the MTA for elevators in 95% of NYC Transit's subway stations by 2055; advocating for Access-A-Ride ("AAR") expansion and reforms; and advocating for subway elevator maintenance. CIDNY has also worked alongside Brooklyn Center for Independence of the Disabled, Mobilization for Justice, and New York Lawyers for the Public Interest to track Access-A-Ride failures and ensure paratransit users know their rights. CIDNY has strongly supported Congestion Pricing as a means to fund critical accessibility upgrades in the subway system, most importantly the elevators which the MTA plans to build.

The Elevator Action Group (also known as Rise and Resist) is committed to making the New York City subway system 100% accessible. The Elevator Action Group believes accessibility is not a dismissible issue, it is not a luxury or a convenience, it is a necessity and a civil right. The Elevator Action Group's work for the past seven years has involved actions and demonstrations at subway stations, testifying at MTA meetings, petitioning community boards, writing letters, attending court hearings, and working with other disability rights organizations and transit advocates to put accessibility at the top of the MTA agenda. In 2022, the MTA committed to making the subway system 95% stair-free accessible by 2055 through a lawsuit settlement. The Elevator Action Group believes that the continuation of Congestion Pricing is essential. The Elevator Action Group will continue to fight for a truly public transit system, because elevators are for everyone.

The Harlem Independent Living Center (HILC) was established in 1990 to provide access to independent living services to individuals with disabilities who were unserved or underserved in New York City. HILC also aimed to expand the core services of the independent living philosophy to minorities in New York City. One of the main priorities of HILC is accessible transportation and policies that promote funding major accessibility projects. HILC collaborates with other community-based organizations and advocacy groups to ensure that New York City is accessible to everyone, especially people with disabilities. HILC achieves this through advocacy, education, and collaboration. HILC is delighted to join this effort towards achieving 100% accessibility in New York City.

Mobilization for Justice, Inc. (MFJ) is a non-profit legal services organization that has provided free civil legal services to low-income New Yorkers for over 60 years. MFJ's mission is to achieve justice for all by prioritizing the needs of people who are low-income, disenfranchised, or have disabilities as they struggle to overcome the effects of social injustice and systemic racism. MFJ provides high-quality free, direct civil legal assistance, conducts community education and builds partnerships, engages in policy advocacy, and brings impact litigation. MFJ's disability rights legal and legislative advocacy covers a wide range of issues, including assisting seniors and people with disabilities to access appropriate transportation; assisting children with mental health disabilities and their families through medical-legal partnerships with City hospitals; assisting seniors and nursing home residents by preventing evictions and involuntary discharges; and serving people with mental health disabilities living in the community. MFJ's disability rights litigation successes include the representation of a class of people with disabilities who obtained due process protections in the Access-A-Ride application and appeal process.

New York Lawyers for the Public Interest (NYLPI), founded in 1976, is a public interest law firm that, through its Disability Justice Program, advocates for the rights of persons with disabilities in New York City. NYLPI has litigated extensively on behalf of persons with disabilities. NYLPI's key issues include the right to nondiscriminatory transportation for all persons with disabilities, and NYLPI is actively working to achieve reforms of AAR and for improved access to all of New York City's transportation services, including the medallion and ride-share industries. Recent court successes include a landmark suit that resulted in improved access for AAR users who have limited English proficiency. Most recently, NYLPI filed two lawsuits in New York Supreme Court seeking to compel the MTA to include AAR users in all discount programs available to other mass transit users, and to address the inaccessible gaps between the trains and platforms in subway stations.

Together, *amici* have decades of experience protecting and promoting the civil rights of people with disabilities through legal representation, individual and class action litigation, policy advocacy, education, and training. *Amici* have worked with countless New Yorkers with disabilities to address problems with transit and paratransit accessibility, housing, nursing homes, and other adult group homes, public education, and access to public benefits and other municipal services. Given their expertise and experience, *amici* submit this brief to inform the Court on how the federal government's attempt to rescind approval of the congestion pricing program impacts New Yorkers with disabilities and to urge the Court to grant Plaintiffs the relief they seek: an injunction staying and enjoining Defendants from, *inter alia*, taking any actions to enforce compliance with the February 19, 2025 letter purporting to terminate the Value Pricing Pilot Program ("VPPP") Agreement, and from in any way withholding federal funding from Plaintiffs.

II. INTRODUCTION

In 2019, the New York Legislature passed, and then-Governor Cuomo signed, a law mandating that Congestion Pricing be implemented. *See* N.Y. Vehicle & Traffic L. § 1701, *et seq.* Congestion Pricing rests on the Legislature’s determination that New York City’s severe traffic congestion, as well as the absence of a reliable source of funding for public transit, can be addressed together by imposing a toll on vehicle traffic. The 2019 legislation requires the establishment of a tolling program in the central business district (“CBD”), defined primarily as Manhattan south of 60th street except for FDR Drive and the West Side Highway. Tolling would reduce congestion while generating revenues to support public transit capital projects, which in turn would provide an improved alternative to driving.

Because the tolled area includes federal-aid highways, the federal government took the position that Congestion Pricing required federal approval before it could begin. In June 2019, the New York State and City Departments of Transportation, and the Triborough Bridge and Tunnel Authority (“TBTA”—an affiliate of the Metropolitan Transportation Authority (“MTA”)—sought an agreement to implement Congestion Pricing from the Federal Highway Administration (“FHWA”) under the VPPP.

The FHWA spent years studying Congestion Pricing program, ultimately authorizing it by executing a VPPP agreement on November 21, 2024. The FHWA’s review included a comprehensive Environmental Assessment of the proposed Congestion Pricing Program under the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321, *et seq.*, produced after careful study and consideration of tens of thousands of public submissions.¹ On a regional basis, the

¹ CBD Tolling Program Final Environmental Assessment (April 2023), available at: <https://www.mta.info/document/110751>.

Environmental Assessment concluded that Congestion Pricing would reduce levels of all pollutants in the New York City metropolitan area that are regulated under the federal Clean Air Act. *See 42 U.S.C. 7401, et seq.*

On January 5, 2025, the Congestion Pricing program went into effect. Congestion Pricing is the product of years of environmental planning, infrastructure procurement, and coordination between local, state, and federal authorities. Congestion Pricing is essential to New York City’s future. It provides cleaner air, reduces economically ruinous traffic congestion, and funds critical improvements to the public transit system that will allow it to better serve the needs of all New Yorkers, including New Yorkers with disabilities.

Within weeks of Congestion Pricing’s successful launch, the Secretary of the United States Department of Transportation, Sean Duffy, announced his decision to end it. Secretary Duffy disclaimed any need to consider the effects of ending Congestion Pricing, announced that the FHWA had unilaterally withdrawn from the VPPP agreement, and declared that the program would end. On February 19, 2025, Secretary Duffy sent a letter to Governor Hochul ordering New York State to engage in the “orderly cessation” of the Congestion Pricing program.² The MTA filed this lawsuit that same day, alleging that the Defendants’ purported termination of the VPPP Agreement is null and void.

Riders Alliance and Sierra Club moved to intervene as plaintiffs on March 4, 2025, the New York State Department of Transportation (“NYSDOT”) moved to intervene as a plaintiff on March 19, 2025, and the New York City Department of Transportation (“NYCDOT”) moved to intervene as a plaintiff on April 2, 2025. Those motions were granted, and MTA, TBTA, NYSDOT, and NYCDOT filed a joint complaint, and Riders Alliance and Sierra Club filed a joint

² *See* ECF 87-5.

complaint. Subsequently MTA, TBTA, NYSDOT, and NYCDOT filed a consolidated amended complaint, and then a consolidated second amended complaint.

On February 20, 2025, Defendant Gloria M. Shepherd sent a letter to NYSDOT, NYCDOT, and the TBTA, ordering them to cease collection of tolls by March 21, 2025.³ On March 20, 2025, Defendant Shepherd sent another letter to those entities, this time ordering them to cease collection of tolls by April 20, 2025.⁴ Secretary Duffy sent a subsequent letter to Governor Hochul on April 21, 2025, affirming that the VPPP Agreement had been “terminated” by the February 19, 2025 letter, and threatening that if Congestion Pricing continues after May 28, 2025, the federal government “will implement appropriate initial compliance measures,” including: (1) “no further advance construction . . . authorizations,” (2) “no further National Environmental Policy Act . . . approvals,” (3) “no further approvals for Statewide Transportation Improvement Program . . . amendments concerning New York Metropolitan Transportation Council . . . TIP [(Transportation Improvement Program)] modifications,” and (4) “no further obligations of FHWA funds (both formula and competitive) for projects within New York City . . .”⁵

Among the groups who would be most affected by the federal government’s attempt to end Congestion Pricing are people with disabilities. The adverse impacts of any cancellation of the program on the disability community are dramatic. The MTA has relied on Congestion Pricing to fund \$15 billion of its 2020-2024 Capital Plan – \$5.2 billion of which is earmarked for accessibility improvements – and \$7.1 billion of the 2025-2029 capital plan is earmarked for accessibility

³ See ECF 87-6.

⁴ See ECF 87-8.

⁵ See ECF 87-10.

improvements.⁶ Without that funding infusion, critical accessibility improvements to the subway system are seriously jeopardized. Additionally, tens of thousands of people with disabilities who rely on Access-A-Ride (“AAR” – New York City’s paratransit system) and buses are already benefitting from the reduced traffic gridlock that Congestion Pricing has brought. Lastly, people with disabilities are particularly susceptible to harms from air pollution and would be deprived of the improved air quality and reduced health risks already flowing from Congestion Pricing.

Congestion Pricing is the engine needed to power a more accessible and healthier New York City, particularly for people with disabilities. Indeed, publicly available data, after only several months of Congestion Pricing having been in effect, show that critical accessibility projects have been advanced, fewer vehicles are entering the Congestion Pricing zone, and commute times have decreased throughout the region. Congestion Pricing is making it possible for the MTA to better serve the needs of all New Yorkers, including New Yorkers with disabilities, and is therefore essential to New York City’s future.

III. ARGUMENT

A. Abolishing Congestion Pricing Would Greatly Harm New Yorkers with Disabilities

The benefits of Congestion Pricing to people with disabilities who live both inside and outside the congestion zone are myriad. Access to public transportation is essential to the daily lives of New Yorkers with disabilities, yet New York City’s transportation system, due to its age (over a century) and historical decisions, is not sufficiently accessible. The MTA is relying on billions of dollars in projected revenue from Congestion Pricing to make many improvements to

⁶ MTA Capital Program 2020-2024: Rebuilding New York’s Transportation System (September 25, 2019), available at: <https://new.mta.info/document/10511>; MTA Capital Plan 2025-2029: The Future Rides With Us (September 25, 2024), available at: <https://www.mta.info/document/151266>.

the system's accessibility, including the construction and replacement of scores of elevators. If the program is ended, those accessibility improvements will be in significant danger of being deferred or canceled.⁷ People with disabilities also disproportionately benefit from the reduced traffic congestion and increased air quality that Congestion Pricing is yielding and will be disproportionately harmed if Congestion Pricing were ended and they were deprived of those benefits. The abolishment of Congestion Pricing would greatly harm New Yorkers with disabilities.

i. People with Disabilities Greatly Benefit from Increased Transit Accessibility as a Result of Congestion Pricing

First, people with disabilities will greatly benefit from the long-overdue accessibility improvements that the MTA has planned and budgeted for Congestion Pricing to fund. Mass transit is critically important for New Yorkers with disabilities, and the MTA is poised to make real and necessary progress in making the subway system more accessible.⁸ The end of Congestion Pricing would dramatically impair that progress by deferring the MTA's planned accessibility improvements.

a. Access to Mass Transit is Essential for People with Disabilities

New York City's mass transit system is critically important to its residents as well as its countless visitors. The subway in particular serves approximately four million riders a day with hundreds of stations, frequent trains, and 24-hour availability.⁹ Accordingly, commuters in the

⁷ Impact of Congestion Pricing on the Capital Program: Presentation to the MTA Board, *supra* note 3.

⁸ Accelerating Progress: Making Transit Accessible for All New Yorkers, NYU Rudin Center for Transportation (2024), available at:

<https://wagner.nyu.edu/files/faculty/publications/Making%20Transit%20Accessible%20for%20All%20New%20Yorkers%20%284%29.pdf>.

⁹ Subway and bus ridership for 2023 (Accessed on August 22, 2024), available at: <https://new.mta.info/agency/new-york-city-transit/subway-bus-ridership-2023>.

New York City metropolitan area have the highest rate of public transportation usage of any metropolitan area in the United States.¹⁰

Access to public transportation is especially vital for people with disabilities. When the Americans with Disabilities Act (ADA) passed in 1990, Congress noted that “historically, society has tended to isolate and segregate individuals with disabilities” and that “discrimination against individuals with disabilities persists in such critical areas as . . . transportation.” 42 U.S.C §§ 12101(a)(2), (3); *see also* H.R. Rep. No. 485 (II), at 37, (1990), reprinted in 1990 U.S.C.C.A.N. 303, 319 (“[T]ransportation is the linchpin which enables people with disabilities to be integrated and mainstreamed into society.”).

People with disabilities are disproportionately unemployed and experience negative health disparities compared to people without disabilities.¹¹ Accessible transportation is essential to ensuring that people with disabilities can travel to work and school, can attend medical appointments, engage in community and civic activities, visit friends and family – in short, to participate in all that New York City offers. Moreover, accessible transportation benefits not only people with disabilities, but all subway riders, particularly seniors, parents pushing strollers, delivery workers pushing carts, and travelers toting luggage.

¹⁰ According to the New York City Department of Transportation’s most recent mobility survey, the most common transit mode used by New Yorkers in 2022 is the subway, used for 71% of weekday transit trips. About one-quarter (24%) of weekday transit trips are made using buses. *See* 2022 Citywide Mobility Survey Results, New York City Department of Transportation, available at: <https://www.nyc.gov/html/dot/downloads/pdf/2022-cms-report.pdf>.

¹¹ The unemployment rate for people with a disability is 7.2 percent, more than double the rate of people without disabilities at 3.5 percent. *See* Persons with a Disability: Labor Force Characteristics – 2023, U.S. Bureau of Labor Statistics (February 22, 2024), available at: <https://www.bls.gov/news.release/pdf/disabl.pdf>. Additionally, lack of accessible transportation is the second most significant barrier to employment for people with disabilities. *See* Transportation Policy, Center for Independence of the Disabled, New York, available at: <https://www.cidny.org/transportation-policy-23/>.

Yet only 29% of the City’s subway stations are accessible to people with mobility disabilities or other disabilities affecting a person’s ability to use stairs.¹² Additionally, for seniors and other riders with arthritis, vertigo, heart or lung disease, or other mobility impairments which limit use of stairs, the widespread absence of elevators, let alone functioning elevators, in the subway system often forces them into a Hobson’s choice of having to risk injury or over-exertion by using multiple sets of stairs or traveling out of their way to locate a station with an elevator. The legislators who passed the Congestion Pricing law well understood these concerns. The legislative history of Congestion Pricing highlights how the breakdowns and disrepair of New York City’s subway infrastructure:

continue to have a significant deleterious impact on the health, safety, and livelihood of commuters, tourists, resident New Yorkers, as well as business and commerce in the metropolitan commuter transportation district, which is the recognized economic engine of the state of New York, and thereby have adversely affected the economy of the state of New York.¹³

b. Lack of Accessibility is Widespread in All Modes of New York City Public Transportation

Roughly 13% of New York City residents, or over one million people, have disabilities which impact their ability to use mass transit.¹⁴ Yet, as noted, only 29% of subway stations have elevators.¹⁵ Further, though the MTA defines “accessibility” as stations with stair-free access,¹⁶

¹² Reynolds, Ash, The New York City Subway Remains Largely Inaccessible to the Disabled Community, New School Free Press (15 April 2024), available at:

<https://www.newschoolfreepress.com/2024/04/15/the-new-york-city-subway-remains-largely-inaccessible-to-the-disabled-community/#:~:text=Despite%20the%20fact%20that%201,from%20platform%20to%20street%20level.>

¹³ N.Y. Vehicle & Traffic L. § 1701.

¹⁴ Accelerating Progress: Making Transit Accessible for All New Yorkers, *supra* note 5.

¹⁵ Reynolds, *supra* note 9.

¹⁶ Settlement Agreement, *Center for Independence of the Disabled, New York, et al. v. Metropolitan Transportation Authority, et al.* No. 153765/2017 (N.Y. Sup. Ct. N.Y. Co.), <https://dralegal.org/wp-content/uploads/2022/03/Settlement-Agreement-and-Exhibits-ACC.pdf>.

such access to the subway platforms is only part of the equation. In *Goldenberg v. Met. Transp. Auth.*, Sup. Ct. N.Y. Cnty, Index No. 15096/2022, a purported class has alleged that gaps between platforms and trains have rendered the subway system inaccessible. *See Goldenberg v. Met. Transp. Auth.*, 217 N.Y.S.3d 429, 437 (Sup. Ct., N.Y. Cnty. 2024) (denying City of New York's Motion to Dismiss). In addition, there are communication access barriers for individuals with hearing impairments.¹⁷ New Yorkers with disabilities are particularly reliant on improved subway accessibility because New York City's other modes of mass transportation, including buses, taxis, and AAR, are inferior to the subway, cost-prohibitive, or inaccessible – and in some cases all three.

Buses are ostensibly accessible but nonetheless can be unreliable. People with disabilities endure long waits because, for example, there is no room for a wheelchair on a crowded bus.¹⁸ Also, delays, overcrowding, and snow piled on sidewalks – preventing bus ramps and lifts from lowering – often leave individuals with disabilities stranded at the bus stops.¹⁹

Similarly, taxis and for-hire vehicles (FHV), such as Uber and Lyft, offer only limited accessibility. Less than half of yellow cabs are accessible, and they are far more costly than the subway.²⁰ FHV are a worse option still, as the availability of accessible FHV is less reliable than

¹⁷ Barbara Russo-Lennon, Sign of progress: How this new MTA program will keep New Yorkers with hearing impairments connected to public transit, amNY (February 12, 2025), available at: <https://www.amny.com/news/hearing-impairments-asl-program-nyc-transit/>. See also Accelerating Progress: Making Transit Accessible for All New Yorkers (January 2024), available at: <https://wagner.nyu.edu/files/faculty/publications/Making%20Transit%20Accessible%20for%20All%20New%20Yorkers%20%284%29.pdf>

¹⁸ Savannah O'Leary, 25 Years After The ADA, Navigating New York City Is Still Daunting For The Disabled, HUFFINGTON POST (July 27, 2015), available at: https://www.huffpost.com/entry/disabled-new-york_n_55a5084ee4b0a47ac15d5334.

¹⁹ Angely Mercado, City Buses Are Slow, Unreliable and What Many Disabled & Aging NYers Rely On, CITY LIMITS (March 7, 2018), available at: <https://citylimits.org/2018/03/07/city-buses-are-slow-unreliable-and-what-many-disabled-agingnyers-depend-on/>.

²⁰ Liebman, Samantha, Court settlement on accessible taxis in jeopardy, Spectrum News NY1 (February 23, 2024), available at: <https://ny1.com/nyc/all-boroughs/transit/2024/02/23/court->

for inaccessible FHV^s.²¹ During peak times, FHV^s typically cost even more than yellow cabs,²² and a disproportionately lower number of people with disabilities have a smartphone which is an easier way to hail a FHV.²³

Finally, AAR is an inferior mode of travel compared to the subway for a litany of reasons.²⁴ Chief among them, it does not permit for the spontaneity or flexibility of subway travel; rather AAR must be reserved no earlier than two days before the day of travel and no later than 5:00 p.m. on the day before the desired travel.²⁵ Even then, customers should “be prepared to wait up to 30

[settlement-on-accessible-taxis-in-jeopardy#:~:text=As%20of%20this%20week%2C%20about,on%20the%20road%20are%20accessible](#). See also, Ben Brachfeld, Judge rules all new NYC taxis must be wheelchair-accessible until city meets settlement requirement, amNY (September 2, 2024), available at: <https://www.amny.com/nyc-transit/nyc-taxis-wheelchair-accessible-ruling-lawsuit/>.

²¹ Left Behind: New York’s For-Hire Vehicle Industry Continues to Exclude People With Disabilities, New York Lawyers for the Public Interest, available at: <https://www.nylpi.org/wp-content/uploads/2018/05/Left-Behind-Report.pdf>. See also Still Left Behind, New York Lawyers for the Public Interest, available at: <https://nylpi.org/wp-content/uploads/2019/05/Still-Left-Behind-Report%20%94Updated.pdf>; Continuing To Be Left Behind, New York Lawyers for the Public Interest, available at: https://www.nylpi.org/wpcontent/uploads/2021/10/2021_Continuing-to-be-Left-Behind-Report.pdf.

²² See Ride-Shares Versus Taxis in New York City, Which Has Better Prices? CBS2 Puts Both to the Test, CBS NEWS (Dec. 14, 2021), available at: <https://www.cbsnews.com/newyork/news/ride-sharing-prices-new-york-city-uber-lyft-yellow-taxis/>.

²³ Andrew Perrin, et al., Americans with disabilities less likely than those without to own some digital devices, PEW RESEARCH CENTER (Sep. 10, 2021), available at: <https://www.boia.org/blog/why-americans-with-disabilities-use-the-internet-less-frequently>.

²⁴ Notably, a significant number of AAR users – up to 30,000 New Yorkers – could use the subway if it were accessible for them, instead of relying on AAR, resulting in fewer vehicle trips and reducing MTA year over year operating costs. See DiNapoli: Shift in MTA’s Paratransit Program Generates Cost Savings (November 20, 2023), available at: <https://www.osc.ny.gov/press/releases/2023/11/dinapoli-shift-mtas-paratransit-program-generates-cost-savings>.

²⁵ MTA New York City Transit, 2024 Guide to Access-A-Ride Service, available at: <https://new.mta.info/document/115671>.

minutes after the scheduled pickup/depart time,”²⁶ and many times passengers wait much longer to be picked up.²⁷

c. The End of Congestion Pricing Could Place Long-Overdue Plans for Increased Subway Accessibility in Jeopardy

Accessibility improvements that facilitate the use of the subways by people with disabilities, including through settlement agreements with the MTA, have already been planned. In recent years, there have been promising signs that the MTA is committed to improving subway accessibility. In 2022, the MTA entered into a settlement agreement to resolve two class action lawsuits regarding the lack of elevators in subway stations. As part of the settlement, the MTA committed “to add elevators or ramps to create a stair-free path of travel at 95 percent of the currently inaccessible subway stations by 2055,” and, specifically, “to procure contracts to make accessible 81 stations by 2025, another 85 stations by 2035, another 90 stations by 2045, and the last 90 stations by 2055.”²⁸

Congestion Pricing is expected to bring in approximately \$500 million in annual revenue for the MTA for the first three years of congestion pricing, \$700 million for the next three years, and \$900 million thereafter, which the MTA has budgeted for and plans to use in securing \$15 billion in bond financing.²⁹ A substantial portion of the 2020-2024 Capital Plan (\$5.2 billion) and the 2025-2029 Capital Plan (\$7.1 billion) is allocated for accessibility improvements to make the

²⁶ *Id.*

²⁷ MTA touts AAR service gains, but riders with disabilities remain skeptical, amNY (February 9, 2023) available at: <https://www.amny.com/nyc-transit/mta-touts-access-a-ride-service-gains-but-riders-remain-skeptical/>.

²⁸ See ICYMI: Governor Hochul Announces MTA and Accessibility Advocates Agree on Historic Plan for Expanding Accessibility in the New York City Subway System (June 22, 2022), available at:

<https://new.mta.info/press-release/icymi-governor-hochul-announces-mta-and-accessibility-advocates-agree-historic-plan>.

²⁹ See Declaration of Kevin Willens, May 5, 2025 (ECF 84), ¶ 11.

New York City transit system more functional for people with disabilities.³⁰ The MTA is currently in the process of making 60 subway stations accessible, and under the 2025-2029 capital plan will install elevators and make other accessibility improvements at an additional 60 stations, in addition to replacing 45 existing elevators.³¹ The MTA will also make at least six Long Island Railroad and Metro-North railroad stations accessible.³² At the time it announced those projects, the MTA acknowledged that the current level of accessibility is “not good enough.”³³ The MTA acknowledges that “[e]very additional accessible station makes it easier for folks with mobility disabilities to explore and enjoy their city. Currently, a person with a mobility disability often must take a convoluted, circuitous route to make what should be a simple trip.”³⁴ For these reasons, the MTA announced that it was “making historic investments to bring our century-old system up to a state of full accessibility.”³⁵

The end of Congestion Pricing, however, could lead to those accessibility improvements being deprioritized and thrown into serious doubt. The MTA made clear in a June 26, 2024 report on the impact of the earlier pause on Congestion Pricing that accessibility improvements were considered “lower priority,” and that \$2 billion in planned accessibility improvements would be

³⁰See MTA Capital Program 2020-24, Executive Summary, available at: <https://new.mta.info/sites/default/files/2019-09/MTA%202020-2024%20Capital%20Program%20-%20Executive%20Summary.pdf>; MTA Capital Plan 2025-2029: The Future Rides With Us (September 25, 2024) at 61, available at: <https://www.mta.info/document/151266>.

³¹ See Station accessibility projects (April 4, 2025), available at: <https://www.mta.info/project/station-accessibility-upgrades>

³² *Id.*

³³ *Id.*

³⁴ MTA, Working Together to Elevate Transit Accessibility, available at: <https://new.mta.info/accessibility/zoning-for-accessibility>.

³⁵ MTA Capital Program 2020-24, Executive Summary, *supra* note 30.

deferred, including planned improvements to at least 23 stations, and that at least two were subject to “[p]otential cancellation.”³⁶

The promised accessibility improvements covered by the MTA’s 2020-2024 Capital Plan were greater than in all the prior capital plans combined and represented a real effort to create a transit system that meets the needs of the disability community. The accessibility improvements in the 2025-2029 Capital Plan are greater still. Congestion Pricing is the critical financial engine powering the MTA’s commitment to accessibility improvements.

In the initial weeks since it was implemented, Congestion Pricing raised even more revenue than was expected, confirming that it will provide the MTA with the \$15 billion in critical revenue through long-term bonds.³⁷ Specifically, between just January 5, 2025, when it was first implemented, and March 31, 2025, Congestion Pricing amassed nearly \$160 million in revenue.³⁸ The funding that is expected from Congestion Pricing has already provided the MTA with the ability to advance critical infrastructure projects, including those aimed at improving accessibility.

For example, on December 30, 2024, the MTA issued a request for qualifications seeking contractors to upgrade three subway stations—Gates Avenue, Briarwood, and Parsons Boulevard—to ensure compliance with the Americans with Disabilities Act.³⁹ Additionally, expected Congestion Pricing revenue has enabled the MTA to proceed with major infrastructure improvements such as the reconstruction of the Verrazzano-Narrows Bridge’s ramps in Brooklyn.

³⁶ Impact of Congestion Pricing on the Capital Program: Presentation to the MTA Board, *supra* note 3.

³⁷ Stefanos Chen and Winnie Hu, Congestion Pricing Reduced Traffic. Now It’s Hitting Revenue Goals, New York Times (Feb. 24, 2025), available at: <https://www.nytimes.com/2025/02/24/nyregion/nyc-congestion-pricing-revenue-mta.html>.

³⁸ MTA Finance Committee, Financial Performance Report, (Apr. 28, 2025), available at: <https://www.mta.info/document/170771>.

³⁹ MTA, Request for Qualifications, (Dec. 30, 2024), available at: <https://www.mta.info/document/161351>.

To that end, the MTA issued a request for proposals on December 16, 2024, soliciting bids from contractors to undertake this essential project.⁴⁰ These proposals, made possible by Congestion Pricing, represent the crucial first step in transforming the City’s transit infrastructure by turning long-promised improvements into tangible action that will expand access to millions of New Yorkers. If Congestion Pricing were ended, important projects, including projects that would make subways more accessible, would be seriously jeopardized.

ii. People with Disabilities Greatly Benefit from Reduced Traffic Gridlock as a Result of Congestion Pricing

Second, people with disabilities, who disproportionately depend on AAR and buses, greatly benefit from the reduced traffic that Congestion Pricing provides. Prior to the implementation of Congestion Pricing, an average of over 700,000 vehicles entered the Congestion Pricing zone daily, leading to an average speed of travel of seven miles per hour.⁴¹ Before the implementation of the Congestion Pricing plan, the MTA estimated that 100,000 fewer vehicles would enter the Congestion Pricing zone.⁴² With fewer vehicles on the roads, the vehicles that need to be there – AAR, buses, emergency vehicles, delivery drivers, and others – enjoy swifter and safer travel.

The first few months of the implementation of Congestion Pricing have demonstrated traffic alleviation benefits of Congestion Pricing that exceed even the most optimistic pre-

⁴⁰ MTA, Request for Proposals, (Dec. 16, 2024), available at: <https://www.mta.info/document/160641>.

⁴¹ The Benefits of Congestion Pricing, New York City Public Advocate Jumaane D. Williams (June 26, 2024), available at: <https://advocate.nyc.gov/blog/the-benefits-of-congestion-pricing>.

⁴² *Id.* Additionally, the legislative history of Congestion Pricing found that traffic in New York City—which “ranks second worst among cities in the United States and third worst among cities in the world” and is estimated to cost the New York metropolitan area economy more than “one hundred billion dollars over the next five years”—is “crippling and impacts the everyday lives of residents, commuters, taxi and for-hire vehicle traffic, bus transit and emergency services, and is a significant contributor to decreased air quality.” See N.Y. Vehicle & Traffic L. § 1701.

implementation projections. Preliminary data from the MTA and the NYCDOT show fewer vehicles entering the Congestion Pricing zone and faster commute times.⁴³ In the first months of Congestion Pricing's operation, there has already been an 8% to 13% reduction in the number of vehicles entering the Congestion Pricing Zone.⁴⁴ Travel times throughout the region have become much faster and more reliable since the launch of Congestion Pricing, including bridge and tunnel crossings on the Hudson and East Rivers and trip times from Brooklyn and Queens into the Congestion Pricing zone.⁴⁵ This reduced traffic has led to faster bus service in the Congestion Pricing zone.⁴⁶ Congestion Pricing's traffic alleviation benefits have already improved under Congestion Pricing, with progressively larger reductions in traffic each month (compared to the prior year), from an 8% reduction in January to a 12% reduction in February to a 13% reduction in March.⁴⁷

These benefits will positively impact the approximately 176,000 New Yorkers who rely on AAR to get to work, school, medical appointments, and everywhere else.⁴⁸ Unlike the majority of New Yorkers, who can rely on an inaccessible subway system to get around, the vast majority of AAR users have only one option: surface transportation. Many other New Yorkers with disabilities who cannot rely on the subway system rely on buses and are similarly impacted by traffic gridlock. Additionally, increased gridlock disproportionately harms people with disabilities

⁴³ See Declaration of Allison L. C. de Cerreño, Ph.D., May 4, 2025 (ECF 91) ("Cerreño Decl."), ¶ 25.

⁴⁴ See <https://metrics.mta.info/?cbdtp/vehiclereductions>

⁴⁵ Cerreño Decl. ¶ 25(c)-(e), (g) (citing data sources).

⁴⁶ *Id.* ¶ 25(i).

⁴⁷ See <https://metrics.mta.info/?cbdtp/vehiclereductions>

⁴⁸ Martinez, Jose, Federal Judge Lets Human Rights Case Against Access-A-Ride Proceed, The City (April 15, 2024), available at: <https://www.thecity.nyc/2024/04/15/mta-paratransit-violating-human-rights/>.

as increased gridlock raises the risk of pedestrian death and injuries, and the majority of such deaths and injuries happen to individuals using wheelchairs.⁴⁹

In the early months of Congestion Pricing, AAR customers have experienced steady service improvements in on-time performance.⁵⁰ While the data is only beginning to be collected, the trajectory is promising.⁵¹ As the MTA has acknowledged, AAR customers are “seeing and feeling [the] difference in their travels.”⁵² The current threat to Congestion Pricing endangers the growth achieved in this nascent phase, and the benefits to the people with disabilities from these improvements.

iii. People with Disabilities Greatly Benefit from Improved Air Quality as a Result of Congestion Pricing

Third, people with disabilities are disproportionately affected by poor air quality and will therefore disproportionately benefit from the improved air quality that is expected to result from Congestion Pricing. As described in the Amended Intervenor Complaint of Riders Alliance and Sierra Club, Congestion Pricing will result in lower levels of harmful emissions and cleaner air.⁵³ With fewer vehicles traveling in the Congestion Pricing zone, the region anticipates improved air quality and attendant health benefits, just as other cities with congestion pricing plans have enjoyed. For example, the Natural Resources Defense Council reported that, after implementing congestion pricing in Stockholm, there was a significant decrease in asthma-related hospital visits

⁴⁹ Majority of Car-Pedestrian Deaths Happen to Those in Wheelchairs, Often at Intersections, Georgetown University Medical Center (Nov. 19, 2015), available at: <https://gumc.georgetown.edu/news-release/majority-of-car-pedestrian-deaths-happen-to-those-in-wheelchairs-often-at-intersections/>.

⁵⁰ Access-A-Ride Speeds Up in Congestion Zone, The City (March 25, 2025), available at: <https://www.thecity.nyc/2025/03/25/access-a-ride-congestion-pricing-faster-manhattan/>.

⁵¹ *Id.*

⁵² *Id.*

⁵³ ECF 63.

for children, and the cleaner air from London's program has added 1,888 years to the lives of their population.⁵⁴ In one year after London's expansion of its Ultra Low Emission Zone, there has been a 27% decrease in levels of nitrogen dioxide citywide, and an 80% reduction in exposure to illegal levels of air pollution among people living near busy roads, with some of the most substantial improvements found in outer boroughs of the city.⁵⁵

People with disabilities are particularly susceptible to harm from air pollution. The American Lung Association has detailed how, by breathing in air pollution, people living with asthma, chronic obstructive pulmonary disease, cardiovascular disease, diabetes, and other chronic diseases put additional stress on their lungs, hearts, and other organs already compromised by disease.⁵⁶ The increased air pollution often triggers a worsening of symptoms, increased medication use, more frequent emergency department visits and hospitalizations, an overall reduced quality of life and even premature death.⁵⁷ Other studies have shown that air pollution may increase the risk of several chronic diseases that contribute to the progression of disability.⁵⁸ In addition, the number of people killed or disabled by certain heart problems caused by exposure to air pollution has risen 31% since 1990.⁵⁹

⁵⁴ What Is Congestion Pricing?, Natural Resources Defense Council (May 25, 2022), available at: <https://www.nrdc.org/stories/what-is-congestion-pricing#:~:text=Congestion%20pricing%20is%20a%20fee%20on%20vehicles,in%20cities%20like%20New%20York%20and%20London>.

⁵⁵ Cleaner air for Londoners after Ulez – report, BBC (March 7, 2025), available at <https://www.bbc.com/news/articles/cgg9nnj274xo>.

⁵⁶ Who is Most Affected by Outdoor Air Pollution?, American Lung Association (June 17, 2024), available at: <https://www.lung.org/clean-air/outdoors/who-is-at-risk>.

⁵⁷ *Id.*

⁵⁸ Weuve, Kaufman, Szpiro, et al., Exposure to Traffic-Related Air Pollution in Relation to Progression in Physical Disability among Older Adults (March 29, 2016), available at: <https://ehp.niehs.nih.gov/doi/10.1289/ehp.1510089>

⁵⁹ Moradi, Behnoush, Abbasi-Kangevari, et al., Particulate Matter Pollution Remains a Threat for Cardiovascular Health: Findings From the Global Burden of Disease 2019 (August 9, 2023), available at: <https://www.ahajournals.org/doi/10.1161/JAHA.123.029375>.

Ending Congestion Pricing would deprive that population of the substantial benefits they have derived from the improved air quality that the program has begun to bring.

B. Defendants' Threatened Withholding of Federal Funds Could Significantly Harm People With Disabilities

Likewise, New Yorkers with disabilities could be severely harmed if Defendants were to carry out their threat of unlawfully withholding federal funding from New York City if New York permits Congestion Pricing to continue. As set forth in the MTA's moving papers, the MTA regularly receives FHWA funding through the Congestion Mitigation and Air Quality ("CMAQ").⁶⁰ *See* 23 U.S.C. § 149. The MTA uses the majority of that CMAQ funding for projects under the ADA, including the installation of ADA-compliant elevators and equipment at previously non-accessible stations.⁶¹ For example, CMAQ funding is being used for accessibility projects at the Middletown Road and Morrison Avenue-Soundview subway stations in the Bronx and the Broadway Junction station in Brooklyn.⁶² By helping to increase subway ridership and reduce reliance on vehicular modes of transportation, these projects contribute to reductions in vehicle miles traveled and associated emissions, improve air quality, and reduce regional congestion.⁶³ FHWA funds are also used to maintain New York City roads, which is critical to the ability of buses and AAR vehicles to provide reliable service.⁶⁴ This benefits New Yorkers with disabilities in numerous ways, including by making subway stations more accessible, by reducing traffic congestion and making buses and AAR more reliable, and by improving air

⁶⁰ ECF 84, ¶ 26.

⁶¹ *Id.* ¶ 27.

⁶² *Id.* ¶¶ 28-29.

⁶³ *Id.* ¶ 26.

⁶⁴ *Id.* ¶ 30.

quality. If Defendants were to withhold this funding, people with disabilities could be harmed to a substantial and disproportionate degree.

IV. CONCLUSION

People with disabilities would be particularly and disproportionately harmed by the end of Congestion Pricing or by the threatened withholding of federal funding to Plaintiffs. For all the above reasons, the Court should grant the relief sought by Plaintiffs.

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